

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DEWARD JOHNSON and ARTHUR BRIGHT,)	
)	
)	
Plaintiffs,)	
)	Case No.: 07 C 7036
vs.)	
)	Judge Ronald Guzman
C.S. JOHNSON (STAR #16589), C.M. BADY (STAR #11453), and the CITY OF CHICAGO,)	Magistrate Judge Geraldine Soat Brown
)	
Defendants.)	
)	

DEFENDANT CITY OF CHICAGO'S MOTION TO CLARIFY

Defendant, City of Chicago "(City)", by its attorney, Terrence M. Burns of Dykema Gossett PLLC, respectfully moves this court for clarification of its June 26, 2008 Order (Dkt. #56). In support of this motion, the City states:

1. On June 19, 2008, this Court entered an order that, among other things, bifurcated plaintiffs' *Monell* claim. (Dkt. #55). On June 26, 2008, this Court entered an order denying Defendants' motion to dismiss. (Dkt. #56). In pertinent part, this Court's corresponding Memorandum Opinion and Order determined plaintiffs' *Monell* allegations "at this stage" were sufficient to withstand a motion to dismiss. (See Memorandum Opinion and Order, Dkt. #57, at p. 6).

2. In light of the Court's denial of the motion to dismiss, under Federal Rule of Civil Procedure 12(a)(4)(A), defendants' responsive pleadings to the complaint would be due July 11, 2008.

3. As previously set forth in the City's Motion to Bifurcate (Dkt. #36) and the Motion to Dismiss (Dkt. #30), plaintiffs' *Monell* claim includes generalized allegations of unrelated misconduct against various members and units of the Chicago Police Department dating back 25 years. Plaintiff's *Monell* allegations make up the largest portion of the complaint, and include paragraphs 24(a) through 24(o), paragraphs 25 through 90, and count IX (paragraphs

119 through 122). In order to prepare appropriate and complete answers, the City's investigation of these numerous allegations, which involve a number of historical matters and issues, will be a time-consuming and labor-intensive process. One of the bases of the City's Motion to Bifurcate was to protect the City's interests by eliminating potentially unnecessary litigation expenses and costs related to such burdensome undertakings related to the *Monell* claim.

4. The City understands this Court's ruling of June 28, 2008, which denied its motion to dismiss the *Monell* claims. However, the Court previously bifurcated plaintiffs' *Monell* claim. The City is uncertain whether this Court intended for the City to provide its answers and responses at this time to the numerous *Monell* allegations in plaintiffs' complaint. This motion seeks clarification from this Court as to whether the City is required to answer plaintiffs' *Monell* allegations at this stage of the proceedings, or whether those answers should be deferred pursuant to the bifurcation.

5. In the event this Court intends for the City to answer the *Monell* allegations in plaintiffs' complaint at this juncture, the City alternatively requests a short extension of time (14 days), up to and including July 25, 2008, to file its responsive pleading to the *Monell* allegations of plaintiffs' complaint.

WHEREFORE, defendant, City of Chicago, requests that this Court clarify its June 26, 2008 Order to indicate whether the City is to prepare answers and responses to the *Monell* allegations of plaintiffs' complaint at this time, or whether those responses should be deferred in light of this Court's previous bifurcation of the *Monell* claims.

Dated: July 2, 2008

Respectfully submitted,

By: s/ Paul A. Michalik
One of the Attorneys for Defendant,
CITY OF CHICAGO

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CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2008, I electronically filed the foregoing **Defendants City of Chicago's Motion to Clarify** with the Clerk of the Court using the ECF system, which sent electronic notification of the filing on the same day to:

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